

Passed by the House on March 30, 2017: Yeas 141, Nays 0, 1 present, not voting;  
passed by the Senate on May 12, 2017: Yeas 31, Nays 0.

Approved June 1, 2017.

Effective September 1, 2017.

## REGULATION OF MANUFACTURED HOMES

### CHAPTER 408

H.B. No. 2019

#### AN ACT

relating to the regulation of manufactured homes.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (1), (6), (7), (8), (19), (23), (24), (26), (30), and (32) and adding Subdivisions (9-a), (21-a), and (26-a) to read as follows:

(1) "Advertisement" means a commercial message that promotes the sale or~~;~~ exchange~~;~~ or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(6) "Broker" means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale or~~;~~ exchange~~;~~ or lease-purchase of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.

(7) "Business use" means the use of a manufactured home *in conjunction with operating a business*, for a purpose other than as a permanent or temporary residential dwelling.

(8) "Consumer" means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase or~~;~~ exchange~~;~~ or lease-purchase a manufactured home.

(9-a) "Credit transaction" has the meaning assigned by Section 347.002(a)(3), Finance Code.

(19) "Manufacturer" means a person who constructs or assembles manufactured housing for sale or~~;~~ exchange~~;~~ or lease-purchase in this state.

(21-a) "Nonresidential use" means use of a manufactured home for a purpose other than as a permanent or temporary residential dwelling.

(23) "Related person" means a person who:

(A) directly ~~or indirectly~~ participates in management or policy decisions; and

(B) is designated by an entity and satisfies the requirements of Sections 1201.104 and 1201.113 on behalf of the entity, if the entity is licensed or seeking licensure under this chapter.

(24) "Retailer" means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale or~~;~~ exchange~~;~~ or lease-purchase to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells or~~;~~ exchanges~~;~~ or lease-purchases at least two manufactured homes to consumers in a 12-month period.

(26) "Salesperson" means a person who, as an employee or agent of a retailer or broker, sells ~~[or lease-purchases]~~ or offers to sell ~~[or lease-purchase]~~ manufactured housing to a consumer.

(26-a) "Sales purchase contract" means the contract between a retailer and a consumer for the purchase of a manufactured home from the retailer.

(30) "Statement of ownership ~~[and location]~~" means a statement issued by the department and setting forth:

(A) the ownership ~~[and location]~~ of a manufactured home in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

(32) "Used manufactured home" means a manufactured home which has been occupied for any use or for which a statement of ownership ~~[and location]~~ has been issued. The term does not include:

(A) a manufactured home that was used as a sales model at a licensed retail location; or

(B) a manufactured home that:

(i) was sold as a new manufactured home and installed but never occupied;

(ii) had a statement of ownership ~~[and location]~~; and

(iii) was taken back from the consumer or transferee because of a first payment default or agreement to rescind or unwind the transaction.

SECTION 2. Subchapter A, Chapter 1201, Occupations Code, is amended by adding Section 1201.010 to read as follows:

*Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. The department shall provide to the public through the department's Internet website searchable and downloadable information regarding manufactured home ownership records, lien records, installation records, license holder records, and enforcement actions.*

SECTION 3. Section 1201.054, Occupations Code, is amended by adding Subsection (d) to read as follows:

*(d) To maintain affordability of manufactured homes in this state, the board shall:*

*(1) conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or another incurred cost by more than \$50 for license holders or consumers; and*

*(2) present at the next board meeting an analysis detailing whether the need for the rule, process, or policy change justifies the increase.*

SECTION 4. Section 1201.055(a), Occupations Code, is amended to read as follows:

(a) With guidance from the federal Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from the rules and regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), the board shall establish fees as follows:

(1) if the department acts as a design approval primary inspection agency, a schedule of fees for the review of HUD-code manufactured home blueprints and supporting information, to be paid by the manufacturer seeking approval of the blueprints and supporting information;

(2) except as provided by Subsection (e), a fee for the inspection of each HUD-code manufactured home manufactured or assembled in this state, to be paid by the manufacturer of the home;

(3) a fee for the inspection of an alteration made to the structure or plumbing, heating, or electrical system of a HUD-code manufactured home, to be charged on an hourly basis and to be paid by the person making the alteration;

(4) a fee for the inspection of the rebuilding of a salvaged manufactured home, to be paid by the retailer;

(5) a fee for the inspection of a used manufactured home to determine whether the home is habitable for the issuance of a new statement of ownership ~~[and location]~~; and

(6) a fee for the issuance of a seal for a used mobile or HUD-code manufactured home.

SECTION 5. Sections 1201.101(b), (c), and (g), Occupations Code, are amended to read as follows:

(b) Except as otherwise provided by this chapter, a person may not sell ~~or~~ exchange, or ~~lease-purchase or~~ offer to sell ~~or~~ exchange, ~~[or lease-purchase]~~ two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a retailer's license.

(c) A person may not offer to negotiate or negotiate for others a bargain or contract for the sale ~~or~~ exchange~~[-or lease-purchase]~~ of two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a broker's license.

(g) A person may not make an announcement concerning the sale ~~or~~ exchange~~[-or lease-purchase]~~ of, or offer to sell ~~or~~ exchange~~[-or lease-purchase]~~, a manufactured home to a consumer in this state through an advertisement unless the person holds a manufacturer's, retailer's, or broker's license. This subsection does not apply to:

(1) a person exempt from licensing; or

(2) an advertisement concerning real property on which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055.

SECTION 6. Section 1201.102, Occupations Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

*(c-1) An individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity that is licensed as a retailer or broker may act on behalf of that license holder in the capacity of a retailer, broker, or salesperson without holding the appropriate license if at least one individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity has satisfied the requirements of Sections 1201.104 and 1201.113.*

(d) A person who holds a real estate broker's or salesperson's license under Chapter 1101 may act as a broker or salesperson under this chapter without holding a license or filing a bond or other security as required by this chapter if negotiations for the sale ~~or~~ exchange~~[-or lease-purchase]~~ of a manufactured home are conducted for a consumer for whom the person is also acting as a real estate broker or salesperson under Chapter 1101 consistent with Section 1201.007.

SECTION 7. Sections 1201.104(a-1), (a-2), and (h), Occupations Code, are amended to read as follows:

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a). If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) ~~for~~ ~~[at]~~ each retail location operated by the applicant.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale ~~and~~ ~~[-and lease-purchase]~~ exchange~~[-and lease-purchase]~~ of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4). *If the examination failure rate exceeds 25 percent, the board shall:*

*(1) review the examination and the examination procedures; and*

*(2) adopt rules intended to maintain the historical passage rate for the examination.*

SECTION 8. Section 1201.105(a), Occupations Code, is amended to read as follows:

(a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is payable to the *manufactured homeowner consumer claims program* ~~[trust fund]~~.

SECTION 9. Section 1201.106(a-1), Occupations Code, is amended to read as follows:

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, *or the sponsoring of a salesperson*, who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the *manufactured homeowner consumer claims program* ~~[trust fund]~~ to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 10. Sections 1201.107(b) and (d), Occupations Code, are amended to read as follows:

(b) Property used for the business that is not contiguous to, or located within 300 feet of, a bonded location requires a separate bond. A location at which a manufactured home is shown to the public or at which the home is offered for sale *or* exchange ~~or lease-purchase~~ by a retailer to consumers requires a bond.

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale *or* exchange ~~or lease-purchase~~ by a retailer or broker to the public, the retailer or broker must:

- (1) identify the bond on file with the department in conjunction with that person's license; and
- (2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 11. Section 1201.111(a), Occupations Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a state or national bank, state or federal savings and loan association, federal savings bank, or state or federal credit union engaged in the business of selling *or* exchanging, ~~or lease-purchasing~~ or offering for sale *or* exchange, ~~or lease-purchase~~ manufactured homes that the institution has acquired through repossession of collateral is not required to attend a course of instruction or file a bond or other security to be licensed as a retailer.

SECTION 12. The heading to Section 1201.113, Occupations Code, is amended to read as follows:

Sec. 1201.113. ~~[CERTIFICATION AND]~~ CONTINUING EDUCATION PROGRAMS.

SECTION 13. Section 1201.113, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The board shall approve ~~or administer~~ continuing education programs for licensees under this chapter. A continuing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Completion of an approved ~~or administered~~ continuing education *program* ~~[course]~~ described by Subsection (a) is a prerequisite to renewal of a license.

(d) *If the approval of a continuing education program expires between regularly scheduled board meetings, the director may, on receipt of the required renewal application, fee, and necessary documentation of education material, approve the continued administration of the program until the next board meeting.*

SECTION 14. Section 1201.118, Occupations Code, is amended to read as follows:

Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The board shall adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously:

(1) been found in a final order to have participated in one or more violations of this chapter that served as grounds for the suspension or revocation of a license;

(2) been found to have engaged in activity subject to this chapter without possessing the required license;

(3) caused the *manufactured homeowner consumer claims program* ~~[trust fund]~~ to incur unreimbursed payments or claims; or

(4) failed to abide by the terms of a final order, including the payment of any assessed administrative penalties.

SECTION 15. Section 1201.151, Occupations Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) A deposit becomes a down payment upon execution of a *sales purchase contract* ~~[binding written agreement]~~. Thereafter, if the consumer exercises *the consumer's three-day* ~~[a]~~ right of rescission *in accordance with Section 1201.1521*, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, *with only the allowable* ~~[without offset or]~~ deduction for real property appraisal and title work expenses in accordance with Section 1201.1511.

(f) *Retention of real property appraisal and title work expenses authorized by Subsection (e) is not allowed if the consumer exercises the right of rescission in accordance with 12 C.F.R. Section 1026.23.*

SECTION 16. Subchapter D, Chapter 1201, Occupations Code, is amended by adding Section 1201.1511 to read as follows:

*Sec. 1201.1511. REAL PROPERTY APPRAISAL AND TITLE WORK EXPENSES.*

(a) *Notwithstanding Section 1201.151 or 1201.1521, a retailer may collect from a consumer in advance or deduct from the consumer's deposit or down payment any expenses incurred by the retailer if, after receiving a conditional notification of approval from a lender chosen by the consumer, the consumer:*

(1) *contracts with the retailer to arrange for services that are performed by an appraiser of real property or a title company in connection with real property that will be included in the purchase or exchange or is intended to be pledged by the consumer as collateral for the consumer's purchase or exchange of a manufactured home;*

(2) *is provided notice of laws relating to rescission and real property appraisal and title work expenses before signing the contract for real property appraisal and title work services; and*

(3) *is provided an itemized list of the specific real property appraisal and title work expenses incurred by the retailer.*

(b) *A retailer may not charge to the consumer any fees or expenses other than the real property appraisal and title work expenses disclosed to the consumer under Subsection (a)(3).*

(c) *The department may demand copies of contracts, invoices, receipts, or other proof of any real property appraisal and title work expenses retained by a retailer.*

SECTION 17. Section 1201.152(a), Occupations Code, is amended to read as follows:

(a) If a retailer purchases a new manufactured home from an unlicensed manufacturer in violation of Section 1201.505, a consumer's contract with the retailer for the purchase or~~;~~ exchange~~;~~ ~~or lease-purchase~~ of the home is voidable until the second anniversary of the date of purchase or~~;~~ exchange~~;~~ ~~or lease-purchase~~ of the home.

SECTION 18. Section 1201.1521, Occupations Code, is amended to read as follows:

*Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR~~;~~ EXCHANGE~~;~~ OR LEASE-PURCHASE* OF HOME. (a) A person who acquires a manufactured home from or through a licensee by purchase or~~;~~ exchange~~;~~ ~~or lease-purchase~~ may, in a cash transaction occurring not later than the third day after the date the sales purchase ~~[applicable]~~ contract is signed, rescind the contract without penalty or charge other than the

*real property appraisal and title work expenses incurred in accordance with Section 1201.1511.*

*(b) A person who acquires a manufactured home from or through a licensee by purchase or exchange may, in a transfer that is based wholly or partly on a credit transaction occurring not later than the third day after the date of the signing of the binding note, security agreement, or other financing credit contract with respect to which the consumer's purchased manufactured home will serve as collateral for the credit transaction, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.*

*(c) [(b)] Subject to rules adopted by the board, a consumer may waive a right of rescission in the event of a bona fide emergency. Such rules shall, to the extent practical, be modeled on the federal rules for the waiver of a right of rescission under 12 C.F.R. Part 1026 [226].*

SECTION 19. Section 1201.156, Occupations Code, is amended to read as follows:

Sec. 1201.156. ADVERTISEMENT AS OFFER. An advertisement relating to manufactured housing is an offer to sell or ~~or exchange or lease purchase~~ manufactured housing to consumers.

SECTION 20. Section 1201.157, Occupations Code, is amended to read as follows:

Sec. 1201.157. RETAILER AS WAREHOUSE ~~[WAREHOUSEMAN]~~. (a) *With respect to the storage of manufactured homes for hire, a [A] licensed retailer is:*

*(1) a "warehouse" ~~["warehouseman"]~~ as defined by Section 7.102, Business & Commerce Code; and*

*(2) a "warehouseman" under Chapter 24, Property Code ~~[, for the storage of manufactured homes for hire].~~*

*(b) The provisions of the Business & Commerce Code relating to the storage of goods for hire apply to a licensed retailer acting as a warehouse ~~[warehouseman]~~.*

*(c) A licensed retailer acting as a warehouse and warehouseman satisfies all storage, bonding, insurance, public sale, and security requirements if the storage of a manufactured home occurs on the retailer's lot and the home is secured in the same manner the retailer secures a manufactured home held on the lot as inventory.*

*(d) In accordance with the provisions of Section 7.210, Business & Commerce Code, a licensed retailer acting as a warehouse to enforce a warehouse's lien is considered to have sold a manufactured home in a commercially reasonable manner if the retailer sells the manufactured home in the same manner the retailer would sell a manufactured home at retail.*

SECTION 21. Section 1201.162(a), Occupations Code, is amended to read as follows:

*(a) Before the completion of a credit application or more than one day before entering into any agreement for a sale or~~;~~ exchange~~;~~ or the exercise of the lease purchase option] that will not be financed, the retailer must provide to the consumer a written disclosure in the form promulgated by the board. The disclosure shall be in at least 12-point type and must address matters of concern relating to costs and obligations that may be associated with home ownership, matters to be considered in making financing decisions, related costs that may arise when purchasing a manufactured home, and such other matters as the board may deem appropriate to promote informed purchase, financing, and related decisions regarding the acquisition and ownership of a manufactured home. The form shall also conspicuously disclose the consumer's right of rescission.*

SECTION 22. Section 1201.164, Occupations Code, is amended to read as follows:

Sec. 1201.164. ADVANCE COPY OF SALES PURCHASE CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations, a retailer shall deliver to a consumer at least 24 hours before the sales purchase contract is fully executed the contract, with all required information included, signed by the retailer. The

delivery of the contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for by ~~in~~ Subsection (b), the consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

(b) *Before the execution of the sales purchase contract, the* ~~[The]~~ consumer may modify or waive the right to rescind and the deadlines for disclosures ~~before the execution of the contract~~ that are provided by Subsection (a) if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. If the consumer has a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods and any right of rescission, and bears the signature of all of the consumers entitled to the disclosures and right of rescission. In such event the retailer shall immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the required waiting periods or the right of rescission. *The department shall verify with the consumer the consumer's bona fide personal emergency before issuing the statement of ownership* ~~[Printed forms for this purpose are prohibited except in a county that has been declared by the governor to be a major disaster area. If the governor declares a county to be a major disaster area, the retailer may use printed forms promulgated by the department. This exception shall expire one year after the county has been declared a major disaster area].~~

SECTION 23. The heading to Subchapter E, Chapter 1201, Occupations Code, is amended to read as follows:

SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP ~~[AND LOCATION]~~

SECTION 24. Section 1201.201, Occupations Code, is amended by amending Subdivisions (1), (2), (3), (5), and (11) and adding Subdivision (1-a) to read as follows:

(1) *"Certificate of attachment" means a written instrument issued solely by and under the authority of the director before September 1, 2001, that provides the information required by former Section 19(l), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), as that subsection existed before that date. Beginning September 1, 2003, a certificate of attachment is considered to be a statement of ownership and may be exchanged for a statement of ownership as provided by Section 1201.214.*

(1-a) "Debtor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2) "Document of title" means a written instrument issued solely by and under the authority of the director before September 1, 2003, that provides the information required by Section 1201.205, as that section existed before that date. Beginning September 1, 2003, a document of title is considered to be a statement of ownership ~~[and location]~~ and may be exchanged for a statement of ownership ~~[and location]~~ as provided by Section 1201.214.

(3) "First retail sale" means a consumer's initial acquisition of a new manufactured home from a retailer by purchase ~~or~~ exchange ~~or lease-purchase~~. The term includes a bargain, sale, transfer, or delivery of a manufactured home for which the director has not previously issued a statement of ownership ~~[and location]~~, with intent to pass an interest in the home, other than a lien.

(5) "Inventory" means new and used manufactured homes that:

(A) a retailer has designated as the retailer's inventory for sale pursuant to the process implemented by the department; and

(B) ~~are not used as residential dwellings when so designated~~ ~~[has the meaning assigned by Section 9.102, Business & Commerce Code].~~

(11) "Subsequent sale" means a bargain, sale, transfer, or delivery of a manufactured

home, with intent to pass an interest in the home, other than a lien, from one person to another after the first retail sale and initial issuance of a statement of ownership [~~and location~~].

SECTION 25. Section 1201.203, Occupations Code, is amended to read as follows:

Sec. 1201.203. FORMS; RULES. (a) The board shall adopt rules and forms relating to:

- (1) the manufacturer's certificate;
- (2) the statement of ownership [~~and location~~];
- (3) the application for a statement of ownership [~~and location~~]; and
- (4) the issuance of an initial or revised statement of ownership.

(b) The board shall adopt rules for the documenting of the ownership [~~and location~~] of a manufactured home that has been previously owned in this state or another state. The rules must protect a lienholder recorded with the department.

SECTION 26. Sections 1201.204(a) and (c), Occupations Code, are amended to read as follows:

(a) A manufacturer's certificate must show:

- (1) on a form prescribed by the director, the original transfer of a manufactured home from the manufacturer to the retailer; and
- (2) on a form prescribed by the director, each subsequent transfer of a manufactured home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership [~~and location~~].

(c) After the first retail sale of a manufactured home, the retailer must submit the original manufacturer's certificate for that home to the department. If an application for an initial statement of ownership is made without the required manufacturer's certificate and the retailer does not provide it as required, the department shall, on or before the issuance of the requested statement of ownership [~~and location~~], send written notice to each party currently reflected on the department's records as having a recorded lien on the inventory of that retailer with respect to that home. Failure to include the original manufacturer's certificate with such an application does not impair a consumer's ability to obtain, on submittal of an otherwise complete application, a statement of ownership [~~and location~~] free and clear of any liens other than liens created by or consented to by the consumer.

SECTION 27. Section 1201.205, Occupations Code, is amended to read as follows:

Sec. 1201.205. STATEMENT OF OWNERSHIP [~~AND LOCATION~~] FORM. A statement of ownership [~~and location~~] must be evidenced by a board-approved form issued by the department setting forth:

- (1) the name and address of the seller and the name and, if it is different from the location of the home, the mailing address of the new owner;
- (2) the manufacturer's name and address and any model designation, if available;
- (3) in accordance with the board's rules:
  - (A) the outside dimensions of the manufactured home when installed for occupancy, as measured to the nearest one-half foot at the base of the home, exclusive of the tongue or other towing device; and
  - (B) the approximate square footage of the home when installed for occupancy;
- (4) the identification number for each section or module of the home;
- (5) the physical address where the home is installed for occupancy, including the name of the county, and, if it is different from the physical address, the mailing address of the owner of the home;
- (6) in chronological order of recordation, the date of each lien, other than a tax lien,



on the home and the name and address of each lienholder, or, if a lien is not recorded, a statement of that fact;

(7) a statement regarding tax liens as follows:

“On January 1st of each year, a new tax lien comes into existence on a manufactured home in favor of each taxing unit having jurisdiction where the home is actually located on January 1st. In order to be enforced, any such lien must be recorded with the Texas Department of Housing and Community Affairs—Manufactured Housing Division as provided by law. You may check that division’s records through its website or contact that division to learn any recorded tax liens. To find out about the amount of any unpaid tax liabilities, contact the tax office for the county where the home was actually located on January 1st of that year.”;

(8) a statement that if two or more eligible persons, as determined by Section 1201.213, file with the application for the issuance of a statement of ownership ~~[and location]~~ an agreement signed by all the persons providing that the home is to be held jointly with a right of survivorship, the director shall issue the statement of ownership ~~[and location]~~ in all the names;

(9) the location of the home;

(10) a statement of whether the owner has elected to treat the home as real property ~~[or personal property]~~;

(11) statements of whether the home is a salvaged manufactured home and whether the home is reserved for business use only *or for another nonresidential use*; and

(12) any other information the board requires.

SECTION 28. Sections 1201.2055(a), (c), (d), (e), (g), and (i), Occupations Code, are amended to read as follows:

(a) In completing an application for the issuance of a statement of ownership ~~[and location]~~, an owner of a manufactured home shall indicate whether the owner elects to treat the home as ~~[personal property or]~~ real property. An owner may elect to treat a manufactured home as real property only if the home is attached to:

(1) real property that is owned by the owner of the home; or

(2) land leased to the owner of the home under a long-term lease, as defined by department rule.

(c) If the department issues a statement of ownership ~~[and location]~~ to an owner of a *manufactured home treated as personal property* ~~[who has elected to treat a manufactured home as personal property]~~, the statement of ownership ~~[and location]~~ on file with the department is evidence of ownership of the home. A lien, charge, or other encumbrance on a home treated as personal property may be made only by filing the appropriate document with the department.

(d) If an owner elects to treat a manufactured home as real property, the department shall issue to the owner a ~~[certified]~~ copy of the statement of ownership ~~[and location]~~ that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a ~~[certified]~~ copy of the statement of ownership ~~[and location]~~ to the owner, the owner must:

(1) file the ~~[certified]~~ copy in the real property records of the county in which the home is located; and

(2) notify the department and the chief appraiser of the applicable appraisal district that the ~~[certified]~~ copy has been filed.

(e) A real property election for a manufactured home is not considered to be perfected until a ~~[certified]~~ copy of the statement of ownership ~~[and location]~~ has been filed and the department and the chief appraiser of the applicable appraisal district have been notified of the filing as provided by Subsection (d).

(g) After a real property election is perfected under Subsection (e):

- (1) the home is considered to be real property for all purposes; and
  - (2) no additional issuance of a statement of ownership [~~and location~~] is required with respect to the manufactured home, unless:
    - (A) the home is moved from the location specified on the statement of ownership [~~and location~~];
    - (B) the real property election is changed; or
    - (C) the use of the property is changed as described by Section 1201.216.
  - (i) Notwithstanding the 60-day deadline specified in Subsection (d), if the closing of a mortgage loan to be secured by real property including the manufactured home is held, the loan is funded, and a deed of trust covering the real property and all improvements on the property is recorded and the licensed title company or attorney who closed the loan failed to complete the conversion to real property in accordance with this chapter, the holder or servicer of the loan may apply for a statement of ownership [~~and location~~] electing real property status, obtain a [~~certified~~] copy of the statement of ownership [~~and location~~], and make the necessary filings and notifications to complete such conversion at any time provided that:
    - (1) the record owner of the home, as reflected on the department's records, has been given at least 60 days' prior written notice at:
      - (A) the location of the home and, if it is different, the mailing address of the owner as specified in the department records; and
      - (B) any other location the holder or servicer knows or believes, after a reasonable inquiry, to be an address where the owner may have been or is receiving mail or is an address of record;
    - (2) such notification shall be given by certified mail; and
    - (3) the department by rule shall require evidence that the holder or servicer requesting such after-the-fact completion of a real property election has complied with the requirements of this subsection.
- SECTION 29. The heading to Section 1201.206, Occupations Code, is amended to read as follows:
- Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP [~~AND LOCATION~~].
- SECTION 30. Sections 1201.206(a), (b), (c), (e), (f), (g), (h), and (k), Occupations Code, are amended to read as follows:
- (a) At the first retail sale of a manufactured home, the retailer shall provide for the installation of the home and ensure that the application for the issuance of a statement of ownership [~~and location~~] is properly completed. The consumer shall return the completed application to the retailer. In accordance with Section 1201.204, the retailer shall surrender to the department the original manufacturer's statement of origin at the same time that the retailer applies for the first statement of ownership [~~and location~~].
  - (b) Not later than the 60th day after the date of the retail sale, the retailer shall provide to the department the completed application for the issuance of a statement of ownership [~~and location~~]. If for any reason the retailer does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.
  - (c) Not later than the 60th day after the date of each subsequent sale or transfer of a home that is considered to be personal property, the seller or transferor shall provide to the department a completed application for the issuance of a new statement of ownership [~~and location~~]. If for any reason the seller or transferor does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.
  - (e) Ownership of a manufactured home does not pass or vest at a sale or transfer of the home until a completed application for the issuance of a statement of ownership [~~and location~~] is filed with the department.

(f) If the owner of a manufactured home relocates the home, the owner shall apply for the issuance of a new statement of ownership ~~[and location]~~ not later than the 60th day after the date the home is relocated. The department shall require that the owner submit evidence that the home was relocated in accordance with the requirements of the Texas Department of Motor Vehicles.

(g) When an application is filed for the issuance of a statement of ownership ~~[and location]~~ for a used manufactured home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075 ~~[is filed]~~, a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that, with respect to each January 1 occurring in the 18-month period preceding the date of the sale, there are no perfected and enforceable tax liens on the manufactured home that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, or personal property taxes due on the manufactured home ~~[that may have accrued on each January 1 that falls within the 18 months before the date of the sale]~~.

(h) If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership ~~[and location]~~ and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least \$100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership ~~[and location]~~ the following legend in a clear and conspicuous manner:

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~ LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(k) Notwithstanding any provision in this chapter to the contrary, if a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title, the department may issue a statement of ownership ~~[and location]~~ to the person claiming ownership if the person can provide a supporting affidavit describing the chain of title and such reasonable supporting proof as the director may require.

SECTION 31. The heading to Section 1201.207, Occupations Code, is amended to read as follows:

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~.

SECTION 32. Sections 1201.207(a), (a-1), (b), (c), and (d), Occupations Code, are amended to read as follows:

(a) Except as provided for in Subsection (a-1), the department shall process any completed application for the issuance of a statement of ownership ~~[and location]~~ not later than the 15th working day after the date the application is received by the department. If the department rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

(a-1) For the period immediately following June 30 of each year, the department shall, except for applications relating to new manufactured homes and applications accompanied by a tax certificate, cease issuing statements of ownership ~~[and location]~~ until all tax liens filed with the department before June 30 have been processed and either recorded or rejected. During this period the department will post on its Internet website a notice as to when it is anticipated that processing statements of ownership ~~[and location]~~ will resume and when it is anticipated that such processing will be within the 15-working-day time frame provided by Subsection (a).

(b) If the department issues a statement of ownership ~~[and location]~~ for a manufactured home, the department shall maintain a record of the issuance in its electronic re-

cords and shall mail a copy to the owner and each lienholder. *The department shall make available to the public on the department's Internet website in a searchable and downloadable format all ownership and lienholder information contained on the statement of ownership.*

(c) Except with respect to any change in use, servicing of a loan on a manufactured home, release of a lien on a manufactured home by an authorized lienholder, or change in ownership of a lien on a manufactured home, but subject to Section 1201.2075, if the department has issued a statement of ownership ~~[and location]~~ for a manufactured home, the department may issue a subsequent statement of ownership ~~[and location]~~ for the home only if all parties reflected in the department's records as having an interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, or the department has followed the procedures provided by Section 1201.206(k) to document ownership and lien status. Once the department issues a statement of ownership ~~[and location]~~, the department shall not alter the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity or to release a lien if an authorized lienholder files with the department a request for that release, of a manufactured home for any activity occurring before the issuance of the statement of ownership ~~[and location]~~ without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

(d) Notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a licensed retailer in the ordinary course of business, whether or not a statement of ownership ~~[and location]~~ has been issued for the manufactured home, the consumer is a bona fide purchaser for value without notice and is entitled to ownership of the manufactured home free and clear of all liens and to a statement of ownership ~~[and location]~~ reflecting the same on payment by the consumer of the purchase price to the retailer. If there is an existing lien on the new manufactured home perfected with the department, the owner of the lien is entitled to recover the value of the lien from the retailer.

SECTION 33. Section 1201.2075, Occupations Code, is amended to read as follows:

Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY. (a) Except as provided by Subsection (b) or Section 1201.206(k), the department may not issue a statement of ownership ~~[and location]~~ for a manufactured home that is being converted from personal property to real property until:

- (1) each lien on the home is released by the lienholder; or
- (2) each lienholder gives written consent, to be placed on file with the department.

(b) The department may issue a statement of ownership ~~[and location]~~ before the release of any liens or *before receiving* the consent of any lienholders as required by this section, *or without receiving the statement required by Section 1201.206(g)*, if the department releases a ~~[certified]~~ copy of the statement to:

- (1) a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed; or
- (2) a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

SECTION 34. Section 1201.2076, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The department may not issue a statement of ownership ~~[and location]~~ for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and:

- (1) each lien, including a tax lien, on the home is released by the lienholder; or
- (2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

*(a-1) Notwithstanding Subsection (a), the department may not require an inspection for habitability before issuing a statement of ownership with respect to a manufactured home if the home is being sold to or ownership is otherwise being transferred to a retailer. The department remains subject to the other requirements of Subsection (a).*

SECTION 35. Section 1201.208, Occupations Code, is amended to read as follows:

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~. (a) Any licensee who sells ~~or~~ ~~exchanges~~ ~~or lease-purchases~~ a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home.

(b) If it is determined that a new manufactured home was sold ~~or~~ ~~exchanged~~ ~~or lease-purchased~~ without the required sales and use tax being paid, the payment shall be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license, and a claim for reimbursement shall be filed with the licensee's surety or the amount deducted from the security for the license.

SECTION 36. Section 1201.209, Occupations Code, is amended to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~. The department may not refuse to issue a statement of ownership ~~[and location]~~ and may not suspend or revoke a statement of ownership ~~[and location]~~ unless:

(1) the application for issuance of the statement of ownership ~~[and location]~~ contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership ~~[and location]~~;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership ~~[and location]~~ would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership ~~[and location]~~ that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a tax lien was filed and recorded under Section 1201.219 and the lien has not been extinguished.

SECTION 37. The heading to Section 1201.210, Occupations Code, is amended to read as follows:

Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~.

SECTION 38. Section 1201.210(a), Occupations Code, is amended to read as follows:

(a) If the director refuses to issue or suspends or revokes a statement of ownership ~~[and location]~~, the director shall give, by certified mail, written notice of that action to:

(1) the seller and purchaser or transferor and transferee, as applicable; and

(2) the holder of a lien or security interest of record.

SECTION 39. Section 1201.212, Occupations Code, is amended to read as follows:

Sec. 1201.212. TRANSFER OF OWNERSHIP BY OPERATION OF LAW. (a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership ~~[and location]~~ after receiving a ~~[certified]~~ copy of:

(1) the order or bill of sale from an officer making a judicial sale;

(2) the order appointing a temporary administrator;

- (3) the probate proceedings;
- (4) the letters testamentary or the letters of administration; or
- (5) if administration of an estate is not necessary, an affidavit by all of the heirs at law showing:
  - (A) that administration is not necessary; and
  - (B) the name in which the statement of ownership ~~[and location]~~ should be issued.
- (b) The department may issue a new statement of ownership ~~[and location]~~ in the name of the purchaser at a foreclosure sale:
  - (1) for a lien or security interest foreclosed according to law by nonjudicial means, if the lienholder or secured party files an affidavit showing the nonjudicial foreclosure according to law; or
  - (2) for a foreclosed constitutional or statutory lien, if the person entitled to the lien files an affidavit showing the creation of the lien and the resulting divestiture of title according to law.
- (c) The department shall issue a new statement of ownership ~~[and location]~~ to a survivor if:
  - (1) an agreement providing for a right of survivorship is signed by two or more eligible persons, as determined under Section 1201.213; and
  - (2) on the death of one of the persons, the department is provided with a copy of the death certificate of that person.

SECTION 40. Section 1201.213(b), Occupations Code, is amended to read as follows:

- (b) If the statement of ownership ~~[and location]~~ is being issued in connection with the sale of the home, the seller is not eligible to sign a right of survivorship agreement under this subchapter unless the seller is the child, grandchild, parent, grandparent, or sibling of each other person signing the agreement. A family relationship required by this subsection may be a relationship established by adoption.

SECTION 41. Section 1201.214, Occupations Code, is amended to read as follows:

Sec. 1201.214. DOCUMENT OF TITLE; *CERTIFICATE OF ATTACHMENT*. (a) Effective September 1, 2003, all outstanding documents of title *or certificates of attachment* are considered to be statements of ownership ~~[and location]~~.

- (b) An owner or lienholder may provide to the department a document of title *or certificate of attachment* and any additional information required by the department and request that the department issue a statement of ownership ~~[and location]~~ to replace the document of title *or certificate of attachment*. The department shall mail to the owner or lienholder a copy of the statement of ownership ~~[and location]~~ issued under this subsection.

SECTION 42. Section 1201.216, Occupations Code, is amended to read as follows:

Sec. 1201.216. CHANGE IN USE. (a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property *or intends to treat the home as a salvaged manufactured home or reserve the home [its use] for a business use [purpose] or another nonresidential use [salvage]*, the department shall indicate on the statement of ownership ~~[and location]~~ for the home that:

- (1) the owner of the home has elected to treat the home *as described by this subsection [as real property or to reserve its use for a business purpose or salvage]*; and
  - (2) except as provided by Section 1201.2055(h), the home is no longer a manufactured home for purposes of regulation under this chapter or of recordation of liens, including tax liens.
- (b) On application and subject to Sections 1201.2076 and 1201.209, the department shall issue for the structure described in the application a new statement of ownership ~~[and location]~~ restoring the structure's designation as a manufactured home only after an inspection and determination that the structure is habitable as provided by Section 1201.453.

SECTION 43. Section 1201.217, Occupations Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (d-1) and (g) to read as follows:

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the record owner of the home, all lienholders at the addresses listed on the home's statement of ownership ~~[and location]~~ on file with the department, the tax collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located, and any intervening owners of liens or equitable interests. The notice must include the address where the home is currently located. If the person giving such notice knows that a person to whom the notice is being given no longer resides and is no longer receiving mail at a known address, a reasonable effort shall be made to locate the person and give the person notice at an address where the person is receiving mail. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(d) If the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked:

(1) all liens on the home are extinguished; and

(2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership ~~[and location]~~ listing the real property owner as the owner of the manufactured home.

*(d-1) When applying for a statement of ownership under this section, the real property owner shall include with the application an affidavit stating that:*

*(1) the person owns the real property where the manufactured home is located; and*

*(2) the name of the person to whom title to the home will be transferred under this section is the same name that is listed in the real property or tax records indicating the current ownership of the real property.*

(e) A new statement of ownership ~~[and location]~~ issued by the department under this section transfers, free of any liens, if there is evidence of United States Postal Service return receipt from all lienholders, title to the manufactured home to the real property owner.

*(g) Notwithstanding Subsection (f), an owner of real property on which a manufactured home has been abandoned may apply for a new statement of ownership with respect to a home that was previously declared abandoned and then resold and abandoned again.*

SECTION 44. Section 1201.219(h), Occupations Code, is amended to read as follows:

(h) The department shall remove from a manufactured home's statement of ownership ~~[and location]~~ a reference to any tax lien delinquent more than four years for which no suit has been timely filed in accordance with Section 33.05(a)(1), Tax Code, if:

(1) a tax collector confirms no suit has been filed; or

(2) the department:

(A) has submitted to a tax collector two requests under Subsection (g) sent not fewer than 15 days apart; and

(B) has not received any response from the tax collector before the 60th day after the tax collector's receipt of the second request.

SECTION 45. Section 1201.220, Occupations Code, is amended to read as follows:

Sec. 1201.220. REPORT TO CHIEF APPRAISER. (a) The department shall make available in electronic format, or in hard-copy format on request, to each chief appraiser of an appraisal district in this state a monthly report that, for each manufactured home reported as having been installed during the preceding month in the county for which the district was established and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership ~~[and location]~~ during the preceding month, lists:

- (1) the name of the owner of the home;
- (2) the name of the manufacturer of the home, if available;
- (3) the model designation of the home, if available;
- (4) the identification number of each section or module of the home;
- (5) the address or location where the home was reported as installed; and
- (6) the reported date of the installation of the home.

(b) *The department shall make the report required by this section available to the public on the department's Internet website in a searchable and downloadable format.*

SECTION 46. Section 1201.221(b), Occupations Code, is amended to read as follows:

(b) A request under Subsection (a) must contain:

- (1) the name of the owner of the home as reflected on the statement of ownership ~~[and location]~~; or
- (2) the identification number of the home.

SECTION 47. Section 1201.222(a), Occupations Code, is amended to read as follows:

(a) A manufactured home is treated as real property only if:

- (1) the owner of the home has elected to treat the home as real property as provided by Section 1201.2055; and
- (2) a ~~[certified]~~ copy of the statement of ownership ~~[and location]~~ for the home has been filed in the real property records of the county in which the home is located.

SECTION 48. Section 1201.255(a), Occupations Code, is amended to read as follows:

(a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any purpose *other than to view the home on a retailer's sales lot*.

SECTION 49. Section 1201.358(d), Occupations Code, is amended to read as follows:

(d) A manufacturer, retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages from the *manufactured homeowner consumer claims program* ~~[trust fund]~~.

SECTION 50. Section 1201.360(a), Occupations Code, is amended to read as follows:

(a) The seller of real property to which a new HUD-code manufactured home is permanently attached may give the initial purchaser a written warranty that combines the manufacturer's warranty and the retailer's warranty required by this subchapter if:

- (1) the statement of ownership ~~[and location]~~ reflects that the owner has elected to treat the home as real property;
- (2) the home is actually located where the statement of ownership ~~[and location]~~ reflects that it is located; and
- (3) a ~~[certified]~~ copy of the statement of ownership ~~[and location]~~ has been filed in the real property records for the county in which the home is located.

SECTION 51. The heading to Subchapter I, Chapter 1201, Occupations Code, is amended to read as follows:

**SUBCHAPTER I. MANUFACTURED HOMEOWNER CONSUMER CLAIMS  
PROGRAM ~~[HOMEOWNERS' RECOVERY TRUST FUND]~~**

SECTION 52. Section 1201.401, Occupations Code, is amended to read as follows:

Sec. 1201.401. **MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM ~~[HOMEOWNERS' RECOVERY TRUST FUND]~~**. (a) *The department shall administer the manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under this chapter ~~[homeowners' recovery trust fund is an account in the general revenue fund]~~.*



(b) *The department may make a payment under the manufactured homeowner consumer claims program only after all other departmental operating expenses are sufficiently funded.*

SECTION 53. Section 1201.404, Occupations Code, is amended to read as follows:

Sec. 1201.404. CONSUMER COMPENSATION. (a) Except as otherwise provided by Subchapter C, *a payment made under the manufactured homeowner consumer claims program* ~~[the trust fund]~~ shall be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer to compensate a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

- (1) this chapter;
- (2) a rule adopted by the director;
- (3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
- (4) a rule or regulation of the United States Department of Housing and Urban Development; or
- (5) Subchapter E, Chapter 17, Business & Commerce Code.

(b) *The department is* ~~[trust fund and the director are]~~ not liable to the consumer if *the manufactured homeowner consumer claims program* ~~[trust fund]~~ does not have the money necessary to pay the actual damages determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

SECTION 54. Sections 1201.405(c), (d), (f), and (g), Occupations Code, are amended to read as follows:

(c) *Under the manufactured homeowner consumer claims program, the department* ~~[The trust fund]~~ is not liable for and the director may not pay:

- (1) punitive, exemplary, double, or treble damages; or
- (2) damages for pain and suffering, mental anguish, emotional distress, or other analogous tort claims.

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover *through the manufactured homeowner consumer claims program* ~~[against the trust fund]~~ as a result of, a claim against a license holder that results from a cause of action directly related to the sale, ~~[lease-purchase,]~~ exchange, brokerage, or installation of a manufactured home before September 1, 1987.

(f) *Under the manufactured homeowner consumer claims program, the department* ~~[The trust fund]~~ is not liable for and the director may not pay:

- (1) actual damages to reimburse an affiliate or related person of a licensee, except when the director issues an order under Sections 1201.358(b) and (c);
- (2) actual damages to correct matters that are solely cosmetic in nature;
- (3) for attorney's fees; or
- (4) actual damages to address other matters, unless the matters involve:
  - (A) a breach of warranty;
  - (B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated; ~~[or]~~
  - (C) the breach of an agreement to provide goods or services necessary to the safe and habitable use of a manufactured home such as steps, air conditioning, access to utilities, or access to sewage and wastewater treatment; or

(D) *perfected and enforceable tax liens not extinguished and canceled in accordance with Section 32.015, Tax Code.*

(g) The board by rule may place reasonable limits on the costs that may be approved for payment *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~, including the costs of reassigned warranty work, and require consumers making claims that may be subject to reimbursement *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~ to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the *manufactured homeowner consumer claims program* ~~[trust fund]~~.

SECTION 55. The heading to Section 1201.406, Occupations Code, is amended to read as follows:

Sec. 1201.406. **PROCEDURE FOR RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM** ~~[FROM TRUST FUND]~~.

SECTION 56. Section 1201.406(a), Occupations Code, is amended to read as follows:

(a) To recover *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~, a consumer must file a written, sworn complaint in the form required by the director not later than the second anniversary of:

- (1) the date of the alleged act or omission causing the actual damages; or
- (2) the date the act or omission is discovered or should reasonably have been discovered.

SECTION 57. Sections 1201.409(a) and (c), Occupations Code, are amended to read as follows:

(a) Except as otherwise provided by Subchapter C, the *manufactured homeowner consumer claims program* ~~[trust fund]~~ shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out *under the manufactured homeowner consumer claims program* ~~[of the trust fund]~~ by the director to a consumer in accordance with this subchapter.

(c) If payment to the *manufactured homeowner consumer claims program* ~~[trust fund]~~ of a claim is not made by the surety or from the other security in a timely manner, the attorney general shall file suit for recovery of the amount due the *manufactured homeowner consumer claims program* ~~[trust fund]~~. Venue for the suit is in Travis County.

SECTION 58. Section 1201.410, Occupations Code, is amended to read as follows:

Sec. 1201.410. **INFORMATION ON RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM** ~~[FROM TRUST FUND]~~. The director shall prepare information for notifying consumers of their rights to recover *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~, shall post the information on the department's website, and shall make printed copies available on request.

SECTION 59. Section 1201.451, Occupations Code, is amended to read as follows:

Sec. 1201.451. **TRANSFER OF GOOD AND MARKETABLE TITLE REQUIRED.**

(a) Except as otherwise provided by this subchapter, a person may not sell or~~;~~ exchange~~[-, or lease-purchase]~~ a used manufactured home without the appropriate transfer of good and marketable title to the home.

(b) Not later than the 60th day after the effective date of the transfer of ownership or the date the seller or transferor obtains possession of the necessary and properly executed documents, the seller or transferor shall forward to the purchaser or transferee the necessary, executed documents. If the seller or transferor fails to forward the documents on a timely basis, the purchaser or transferee may apply directly for the documents. On receipt of the documents, the purchaser or transferee shall apply for the issuance of a statement of ownership ~~[and location]~~.

SECTION 60. Section 1201.452(a), Occupations Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell or~~;~~ exchange~~[-, or lease-purchase]~~ or negotiate for the sale or~~;~~ exchange~~[-, or lease-purchase]~~ of a used manufactured home to a consumer unless the appropriate seal or label is attached to the home.

SECTION 61. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell or~~;~~ exchange~~;~~ or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

(b) Unless, not later than the 65th day after the later of the installation date or the date of the sale or~~;~~ exchange~~;~~ or lease-purchase agreement, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

SECTION 62. Section 1201.456, Occupations Code, is amended to read as follows:

Sec. 1201.456. HABITABILITY: EXCEPTION TO WARRANTY REQUIREMENT. The warranty requirement imposed by Section 1201.455 does not apply to a sale or~~;~~ exchange~~;~~ or lease-purchase of a used manufactured home from one consumer to another.

SECTION 63. Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL ~~[BUSINESS]~~ USE OR SALVAGE. (a) If the sale or~~;~~ exchange~~;~~ or lease-purchase of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable *unless the purchaser discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in the home for regularly scheduled work shifts of not less than eight hours each day.* The purchaser of the home shall file with the department an application for the issuance of a statement of ownership ~~[and location]~~ indicating that the home is reserved for a business use.

*(a-1) If the sale or exchange of a used manufactured home is for the purchaser's nonresidential use other than a business use, the home is not required to be habitable. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership indicating that the home is for a nonresidential use other than a business use.*

(b) If a used manufactured home is reserved for a business use or another nonresidential use or is salvaged, a person may not knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership ~~[and location]~~ indicating that the home is no longer reserved for *that* ~~[business]~~ use or *is no longer salvaged* ~~[salvage]~~. On the purchaser's application to the department for issuance of a new statement of ownership ~~[and location]~~, the department shall inspect the home and, if the department determines that the home is habitable, issue a new statement of ownership ~~[and location]~~.

SECTION 64. Section 1201.459(c), Occupations Code, is amended to read as follows:

(c) A seal issued to a tax appraiser or tax assessor-collector is for identification purposes only and does not imply that:

(1) the home is habitable; or

(2) a purchaser of the home at a tax sale may obtain a new statement of ownership ~~[and location]~~ from the department without an inspection for habitability.

SECTION 65. Section 1201.460, Occupations Code, is amended to read as follows:

Sec. 1201.460. COMPLIANCE NOT REQUIRED FOR LIENHOLDER. (a) A holder of a lien recorded on the statement of ownership ~~[and location]~~ of a manufactured home that has not been converted to real property who sells or~~;~~ exchanges~~;~~ or lease-purchases a repossessed manufactured home covered by that statement of ownership

[and location] is not required to comply with this chapter if the sale or[;] exchange[, or lease-purchase] is:

(1) to or through a licensed retailer; or

(2) to a purchaser for the purchaser's business use *or another nonresidential use*.

(b) If the sale or[;] exchange[, or lease-purchase] of the repossessed manufactured home is to or through a licensed retailer, the retailer is responsible and liable for compliance with this chapter and department rules. The lienholder may not be joined as a party in any litigation relating to the sale or[;] exchange[, or lease-purchase] of the home.

(c) If the sale or[;] exchange[, or lease-purchase] of the repossessed manufactured home is to a purchaser for the purchaser's business use *or another nonresidential use*, the lienholder shall apply to the department for the issuance of a new statement of ownership [and location] indicating that the home is reserved for *a business use or another nonresidential use*.

SECTION 66. Sections 1201.461(b), (c), (e), (f), and (h), Occupations Code, are amended to read as follows:

(b) A person who owns a used manufactured home that is salvaged shall apply to the director for the issuance of a new statement of ownership [and location] that indicates that the home is salvaged.

(c) If a new manufactured home is salvaged, the retailer shall remove the label and surrender the label and the manufacturer's certificate under Section 1201.204 to the director for issuance of a statement of ownership [and location] that indicates that the home is salvaged.

(e) A person may not repair, rebuild, or otherwise *refurbish* [alter] a salvaged manufactured home unless the person complies with the rules of the director relating to rebuilding a salvaged manufactured home. *For purposes of this subsection, "refurbish" means any general repairs, improvements, or aesthetic changes to a manufactured home that do not constitute the rebuilding of a salvaged manufactured home.*

(f) If a salvaged manufactured home is rebuilt in accordance with this chapter and the rules of the director, the director shall, on application, issue a new statement of ownership [and location] that indicates that the home is no longer salvaged.

(h) A licensee may not participate in the sale, exchange, [lease-purchase], or installation for use as a dwelling of a manufactured home that is salvage and that has not been repaired in accordance with this chapter and the department's rules. An act that is prohibited by this subsection is deemed to be a practice that constitutes an imminent threat to health or safety and is subject to the imposition of penalties and other sanctions provided for by this chapter. A violation of this subsection is a Class B misdemeanor.

SECTION 67. Section 1201.504, Occupations Code, is amended to read as follows:

Sec. 1201.504. PROHIBITED SALE OR[;] EXCHANGE[, OR LEASE-PURCHASE].

(a) A manufacturer may not sell or[;] exchange, [or lease-purchase] or offer to sell or[;] exchange, [or lease-purchase] a manufactured home to a person in this state who is not a licensed retailer.

(b) A retailer may not sell or[;] exchange, [or lease-purchase] or offer to sell or[;] exchange, [or lease-purchase] a new HUD-code manufactured home that was constructed by a manufacturer who was not licensed by the department at the time of construction.

(c) A retailer, broker, or salesperson may not sell or[;] exchange, [or lease-purchase] or offer to sell or [;] exchange, [or lease-purchase] a manufactured home to a consumer in this state for use as a dwelling unless the appropriate seal or label is attached to the home.

SECTION 68. Sections 1201.512(b) and (c), Occupations Code, are amended to read as follows:

(b) Unless the retailer, broker, or salesperson complies with the requirements of the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.), Subchapter I,

Chapter 16, Water Code, and any other applicable local, state, or federal law, and ensures the consumer's compliance with applicable law by requiring the evidence described by Subsection (c), a retailer, broker, or salesperson who sells *or* exchanges; ~~or lease-purchases~~ a new or used manufactured home to a consumer for use as a permanent dwelling in this state may not:

- (1) deliver or arrange for the delivery of the home to a homesite in a special flood hazard area designated by the director of the Federal Emergency Management Agency;
- (2) install or arrange for the installation of the home at a homesite in that area; or
- (3) assist the consumer in the delivery or installation of, or in making arrangements for the delivery or installation of, the home to or at a homesite in that area.

(c) Before closing on the acquisition of a new or used manufactured home for use as a permanent dwelling in this state, a consumer seeking to acquire the home must provide to the retailer, broker, or salesperson selling *or* exchanging; ~~or lease-purchasing~~ the home satisfactory evidence that the home will not be located, in a manner that violates local, state, or federal law, on a homesite in a special flood hazard area designated by the director of the Federal Emergency Management Agency. A consumer may satisfy the evidentiary requirement of this subsection by providing the retailer, broker, or salesperson, as applicable, with a copy of any required permit to install a septic tank on the homesite.

SECTION 69. Section 1201.513(b), Occupations Code, is amended to read as follows:

(b) A retailer may not knowingly permit a consumer to occupy a manufactured home that is the subject of a sale *or* exchange; ~~or lease-purchase~~ to that consumer before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.

SECTION 70. Section 1201.551, Occupations Code, is amended to read as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION. (a) The director may deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder:

- (1) knowingly and wilfully violated this chapter or a rule adopted or order issued under this chapter;
- (2) unlawfully retained or converted money, property, or any other thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium;
- (3) failed repeatedly to file with the department a completed application for a statement of ownership ~~and location~~ before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later;
- (4) failed to give or breached a manufactured home warranty required by this chapter or by the Federal Trade Commission;
- (5) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code;
- (6) failed to provide or file a report required by the department for the administration or enforcement of this chapter;
- (7) provided false information on an application, report, or other document filed with the department;
- (8) acquired a criminal record during the five-year period preceding the application date that, in the opinion of the director, makes the applicant unfit for licensing;
- (9) failed to file a bond or other security for each location as required by Subchapter C; ~~or~~
- (10) has had another license issued by this state revoked or suspended; or
- (11) *failed to pay the required fee to obtain or renew a license.*

(b) The director may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to pay a final claim paid *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~ for which demand for reimbursement was made.

SECTION 71. Section 1201.6041(a), Occupations Code, is amended to read as follows:

(a) Instead of requiring a consumer to apply for compensation *under the manufactured homeowner consumer claims program* ~~[from the trust fund]~~ under Subchapter I, the director may order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

- (1) this chapter;
- (2) a rule adopted by the director;
- (3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
- (4) a rule or regulation of the United States Department of Housing and Urban Development; or
- (5) Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 72. Section 347.002(b), Finance Code, is amended to read as follows:

(b) To the extent possible, a word or phrase used in this chapter, other than a term defined by this section, has the meaning assigned by *the Truth in Lending* ~~[Part I, Consumer Credit Protection]~~ Act (15 U.S.C. Section 1601 et seq.) and its subsequent amendments, as implemented by *Regulation Z* (12 C.F.R. Part 1026) ~~[12 C.F.R. 226.1 et seq.]~~.

SECTION 73. Section 347.004(a), Finance Code, is amended to read as follows:

(a) A creditor shall comply with all applicable requirements, including required disclosures, under *the Truth in Lending* ~~[Part I, Consumer Credit Protection]~~ Act (15 U.S.C. Section 1601 et seq.) and its subsequent amendments, as implemented by *Regulation Z* (12 C.F.R. Part 1026) ~~[12 C.F.R. 226.1 et seq. (Regulation Z)]~~ adopted under that Act.

SECTION 74. Section 347.056, Finance Code, is amended to read as follows:

Sec. 347.056. **AUTHORITY OF CONSUMER CREDIT COMMISSIONER RELATING TO A CREDIT DOCUMENT.** *Except as provided by Section 347.004(a), the* ~~[The]~~ commissioner may not require the inclusion of any specific language or a disclosure on a credit document that is not expressly required by:

- (1) this chapter; or
- (2) a regulation of the Office of *the Comptroller of the Currency* ~~[Thrift Supervision]~~.

SECTION 75. Section 347.155(b), Finance Code, is amended to read as follows:

(b) On prepayment, after deduction of an acquisition charge that does not exceed \$50, the consumer is entitled to a refund credit of the time price differential or interest. The amount of the credit is computed on an actuarial basis in accordance with regulations of the Office of *the Comptroller of the Currency* ~~[Thrift Supervision]~~ adopted under the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section 1735f-7a ~~[4a]~~ et seq.) for the prepayment of a mortgage loan that is secured by a first lien on a residential manufactured home.

SECTION 76. Section 347.356, Finance Code, is amended to read as follows:

Sec. 347.356. **REQUIREMENTS FOR ACTION TO REPOSSESS, FORECLOSE, OR ACCELERATE PAYMENT OF ENTIRE DEBT.** An action to repossess a manufactured home, foreclose a lien on a manufactured home, or accelerate payment of the entire unpaid balance of a credit transaction must comply with the regulations of the Office of *the Comptroller of the Currency* ~~[Thrift Supervision]~~ relating to the disclosure required

for repossession, foreclosure, or acceleration except in extreme circumstances, including abandonment or voluntary surrender of the manufactured home.

SECTION 77. Section 347.455(b), Finance Code, is amended to read as follows:

(b) If the real property is included in the cash price of a credit transaction, the creditor may:

(1) charge a fee that is ordinarily associated with a real property transaction and is not prohibited by law, including a fee that is associated with a real property transaction and excluded from a finance charge under this chapter by the Consumer Credit Protection Act (15 U.S.C. Section 1601 et seq.) and *Regulation Z* (12 C.F.R. Part 1026) [12 C.F.R. Section 226.1 et seq. (Regulation Z)] adopted under that Act; and

(2) elect to treat the manufactured home as if it were residential real property for all purposes in connection with the credit transaction by conspicuously disclosing that election to the consumer.

SECTION 78. Section 63.005(a), Property Code, is amended to read as follows:

(a) A manufactured home becomes a new improvement to the homestead of a family or of a single adult person upon the filing of the *appropriate statement of ownership* [~~certificate of attachment~~] as provided in Chapter 1201, Occupations Code. As such, if the debt for the manufactured home was contracted for in writing, that debt is considered to be for work and materials used in constructing new improvements thereon and thus constitutes a valid lien on the homestead when the *appropriate statement of ownership* [~~certificate of attachment~~] is filed in the Official Public Records of Real Property in the county in which the land is located.

SECTION 79. Section 1.04(3-a), Tax Code, is amended to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a [~~certified~~] copy of the statement of ownership [~~and location~~] has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 80. Section 11.432(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (a-1), for a manufactured home to qualify as a residence homestead under Section 11.13, the application for exemption required by Section 11.43 must be accompanied by:

(1) a copy of the statement of ownership [~~and location~~] for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home;

(2) a copy of the *sales purchase agreement or other applicable contract or agreement* or the payment receipt showing that the applicant is the purchaser of the manufactured home; or

(3) a sworn affidavit by the applicant stating that:

(A) the applicant is the owner of the manufactured home;

(B) the seller of the manufactured home did not provide the applicant with the *applicable* [~~a purchase~~] contract or agreement; and

(C) the applicant could not locate the seller after making a good faith effort.

SECTION 81. Section 23.127(a), Tax Code, is amended by amending Subdivisions (3) and (9) to read as follows:

(3) "Declaration" means a retail manufactured housing inventory declaration form adopted by the comptroller under this section *in relation to units of manufactured housing considered to be retail manufactured housing inventory*.

(9) "Retail manufactured housing inventory" means all units of manufactured hous-

ing that a retailer holds for sale at retail and that are defined as inventory by Section 1201.201, Occupations Code.

SECTION 82. Section 23.127, Tax Code, is amended by adding Subsection (m) to read as follows:

(m) *Except as provided by Subsection (d), a chief appraiser shall appraise retail manufactured housing inventory in the manner provided by this section.*

SECTION 83. Section 25.08(e), Tax Code, is amended to read as follows:

(e) A manufactured home shall be listed together with the land on which the home is located if:

(1) the statement of ownership [~~and location~~] for the home issued under Section 1201.207, Occupations Code, reflects that the owner has elected to treat the home as real property; and

(2) a [~~certified~~] copy of the statement of ownership [~~and location~~] has been filed in the real property records in the county in which the home is located.

SECTION 84. Section 32.03(b), Tax Code, is amended to read as follows:

(b) A bona fide purchaser for value or the holder of a lien recorded on a manufactured home statement of ownership [~~and location~~] is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs, no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on the manufactured home.

SECTION 85. The following provisions of the Occupations Code are repealed:

- (1) Sections 1201.003(16) and (31);
- (2) Section 1201.058(b);
- (3) Sections 1201.206(i), (i-1), and (j);
- (4) Section 1201.210(d);
- (5) Sections 1201.303(c), (d), (e), (f), and (g);
- (6) Section 1201.402;
- (7) Section 1201.403; and
- (8) Section 1201.611(h).

SECTION 86. This Act takes effect September 1, 2017.

Passed by the House on April 25, 2017: Yeas 123, Nays 21, 2 present, not voting;  
passed by the Senate on May 19, 2017: Yeas 27, Nays 4.

Approved June 1, 2017.

Effective September 1, 2017.

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## EXEMPTION OF CERTAIN COMMERCIAL WEIGHING OR MEASURING DEVICES FROM REGISTRATION AND INSPECTION REQUIREMENTS

### CHAPTER 409

H.B. No. 2029

#### AN ACT

relating to the exemption of certain commercial weighing or measuring devices from  
registration and inspection requirements.

*Be it enacted by the Legislature of the State of Texas:*